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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,197	01/04/2002	Kirill O. Soshalsky	SUNMP019	2020
25920	7590	06/06/2005	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			YIGDALL, MICHAEL J	
			ART UNIT	PAPER NUMBER
			2192	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,197

Applicant(s)

SOSHALSKY ET AL.

Examiner

Michael J. Yigdall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment and response filed on March 2, 2005 has been fully considered.

Claims 1-20 are pending.

Response to Arguments

2. Applicant's arguments have been fully considered but they are not persuasive.

3. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Specifically, Applicant argues that the testing system of the present invention is a "self-monitoring" system that "monitors" the test status, "monitors the performance of the application launcher," and "monitors" the query status "to determine correctness and efficiency of the application launcher" (Applicant's remarks, page 8, second paragraph to page 9, third paragraph). Such features are not recited in the plain language of the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. Nonetheless, in response to Applicant's arguments, Shrader discloses an HTTP server (see, for example, the HTTP server at column 4, lines 53-58), an application launcher (see, for example, the browser at column 5, lines 15-21), a test application (see, for example, the applet at column 5, lines 21-24), a status server (see, for example, the DynamicAppletTest class at column 5, lines 43-52), and a test monitor (see, for example, the test/run program 202 in FIG. 2A).

Applicant contends that Shrader fails to disclose monitoring the test status of the test application and the query status of the HTTP server (Applicant's remarks, page 9, fourth paragraph), because the testing system of Shrader monitors the test cycle requirements but not the test status (Applicant's remarks, page 9, first and third paragraphs).

However, Applicant acknowledges that the testing system of Shrader records the test status to an output file (Applicant's remarks, page 9, third paragraph). Indeed, the testing system of Shrader must monitor the test status in order to record the test status. If the testing system did not monitor the test status, the testing system would have nothing to record.

Shrader expressly discloses that the DynamicAppletTest class, supported by the test/run program, receives status information from the test applet (see, for example, column 5, lines 43-52) for the test/run program to write to the output file (see, for example, column 5, lines 12-13). Moreover, the marker file created by the DynamicAppletTest class, which is monitored by the test/run program (see, for example, column 7, lines 43-46), further indicates the status of the test applet (see, for example, column 5, lines 55-57). The test/monitor program also receives a query status from the HTTP server, such as error and status messages from the browser for the current URL (see, for example, column 6, lines 42-47). Therefore, Shrader discloses monitoring the test status of the test application and the query status of the HTTP server.

Drawings

5. The objections to the drawings are withdrawn in view of the replacement drawing sheets filed on March 2, 2005 for Figures 2, 3, 4A and 4B.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,473,894 to Shrader et al. (art of record, “Shrader”).

With respect to claim 1 (original), Shrader discloses an application launcher testing system (see, for example, the abstract), comprising:

(a) a Hypertext Transfer Protocol (HTTP) server in communication with an application launcher, wherein the HTTP server receives a query for a test application from the application launcher (see, for example, column 4, lines 53-58, which shows an HTTP server and a browser, wherein the HTTP server receives a query from the browser, and see, for example, column 5, lines 15-21, which shows that the browser is an application launcher for querying the server for a test applet or test application);

(b) a status server in communication with the test application, the status server receiving a test status from the test application (see, for example, column 5, lines 43-52, which shows a DynamicAppletTest class that is a status server for receiving status information or a test status from the test applet or test application); and

(c) a test monitor in communication with the HTTP server and the status server, wherein the test monitor receives a query status from the HTTP server, and wherein the test monitor receives the test status from the status server (see, for example, test/run program 202 in FIG. 2A and column 5, lines 43-57, which shows that the test/run program is a test monitor for receiving the test status from the DynamicAppletTest class or status server, and see, for example, column 6, lines 42-47, which shows that the test/run program receives a query status from the HTTP server, such as error and status messages from the browser for the current URL).

With respect to claim 2 (original), Shrader further discloses the limitation wherein the application launcher launches the test application based on a response to the query from the HTTP server (see, for example, column 5, lines 15-21, which shows that the browser or application launcher launches the test applet or test application based on a response from the HTTP server).

With respect to claim 3 (original), Shrader further discloses the limitation wherein the application launcher exits after launching the test application (see, for example, steps 402 and 410 in FIG. 4, and column 8, lines 27-29 and 42-45, which shows that the browser or application launcher exits after launching the test applet or test application).

With respect to claim 4 (original), Shrader further discloses the limitation wherein the test monitor receives an exit code from the application launcher, the exit code indicating a launch status of the test application launch (see, for example, step 408 in FIG. 4 and column 8, lines 36-39, which shows receiving a marker file indicating a completed launch status, and see, for example, column 5, lines 55-57, which shows that the marker file is an exit code).

With respect to claim 5 (original), Shrader further discloses the limitation wherein the test monitor combines the query status, the test status, and the launch status into a report (see, for example, column 8, lines 30-39, which shows combining the test status and query status into an output file or report, and see, for example, column 7, lines 43-46, which shows writing to the output file or report based on the launch status).

With respect to claim 6 (original), Shrader further discloses the limitation wherein the query status indicates the status of the query received from the application launcher (see, for example, column 6, lines 42-47, which shows that the query status indicates the status from the browser or application launcher).

With respect to claim 7 (original), Shrader further discloses the limitation wherein the test monitor starts the status server and the application launcher (see, for example, column 4, lines 53-58, which shows that the test/run program or test monitor starts the browser or application launcher, and column 5, lines 43-52, which shows that this starts the DynamicAppletTest class or status server).

With respect to claim 8 (original), Shrader further discloses the limitation wherein the test monitor starts the HTTP server (see, for example, column 4, lines 53-58, which shows that the test/run program or test monitor starts the HTTP server by way of the browser or application launcher to query the HTTP server).

With respect to claim 9 (original), Shrader discloses a method for testing an application launcher (see, for example, the abstract), comprising the operations of:

(a) launching a Hypertext Transfer Protocol (HTTP) server, a status server and an application launcher, wherein application launcher queries the HTTP server for a test application (see, for example, column 4, lines 53-58, which shows launching a browser to launch an HTTP server with a query, and column 5, lines 15-21, which shows that the browser is an application launcher for querying the server for a test applet or test application, and see, for example, column 5, lines 43-52, which shows launching a DynamicAppletTest class that is a status server);

(b) launching the test application using the application launcher (see, for example, column 5, lines 15-21, which shows launching the test applet or test application with the browser or application launcher);

(c) returning a test status from the test application to the status server (see, for example, column 5, lines 43-52, which shows returning status information or a test status from the test applet or test application to the DynamicAppletTest class or status server); and

(d) returning the test status, a query status, and a launch status to a test monitor (see, for example, test/run program 202 in FIG. 2 and column 5, lines 43-57, which shows that the test/run program is a test monitor to which the test status is returned, and see, for example, column 6, lines 42-47, which shows returning a query status to the test/run program, such as error and status messages from the browser for the current URL, and step 408 in FIG. 4 and column 8, lines 36-39, which shows returning a marker file indicating a completed launch status).

With respect to claim 10 (original), the limitations recited in the claim are analogous to the limitations recited in claim 5 (see the rejection of claim 5 above).

With respect to claim 11 (original), the limitations recited in the claim are analogous to the limitations recited in claim 6 (see the rejection of claim 6 above).

With respect to claim 12 (original), Shrader further discloses the limitation wherein the test status indicates a status of tests performed by the test application (see, for example, column 5, lines 43-52, which shows that the status information or test status indicates the status from the test applet or test application as it operates).

With respect to claim 13 (original), Shrader further discloses the limitation wherein the launch status indicates a status of the application launch operation (see, for example, step 408 in FIG. 4 and column 8, lines 36-39, which shows that the launch status indicates the status of the application launch when complete).

With respect to claim 14 (original), Shrader further discloses the limitation wherein the application launcher uses a uniform resource locator (URL) to launch the test application (see, for example, column 5, lines 15-21, which shows that the browser or application launcher uses a URL to launch the test applet or test application).

With respect to claim 15 (original), the limitations recited in the claim are analogous to the limitations recited in claim 3 (see the rejection of claim 3 above).

With respect to claim 16 (original), the limitations recited in the claim are analogous to the limitations recited in claim 4 (see the rejection of claim 4 above).

With respect to claim 17 (original), Shrader discloses an application launcher testing system (see, for example, the abstract), comprising:

(a) a Hypertext Transfer Protocol (HTTP) server in communication with an application launcher, wherein the HTTP server receives a query for a test application from the application launcher (see, for example, column 4, lines 53-58, which shows an HTTP server and a browser, wherein the HTTP server receives a query from the browser, and see, for example, column 5, lines 15-21, which shows that the browser is an application launcher for querying the server for a test applet or test application), and wherein the application launcher launches the test application based on a response to the query from the HTTP server (see, for example, column 5, lines 15-21, which shows that the browser or application launcher launches the test applet or test application based on a response from the HTTP server);

(b) a status server in communication with the test application, the status server receiving a test status from the test application (see, for example, column 5, lines 43-52, which shows a DynamicAppletTest class that is a status server for receiving status information or a test status from the test applet or test application); and

(c) a test monitor in communication with the HTTP server and the status server, wherein the test monitor receives a query status from the HTTP server, the test status from the status server (see, for example, test/run program 202 in FIG. 2A and column 5, lines 43-57, which shows that the test/run program is a test monitor for receiving the test status from the DynamicAppletTest class or status server, and see, for example, column 6, lines 42-47, which shows that the test/run program receives a query status from the HTTP server, such as error and status messages from the browser for the current URL), and an exit code from the application

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launcher, the exit code indicating a launch status of the test application launch (see, for example, step 408 in FIG. 4 and column 8, lines 36-39, which shows receiving a marker file indicating a completed launch status, and see, for example, column 5, lines 55-57, which shows that the marker file is an exit code), and wherein the test monitor combines the query status, the test status, and the launch status into a report (see, for example, column 8, lines 30-39, which shows combining the test status and query status into an output file or report, and see, for example, column 7, lines 43-46, which shows writing to the output file or report based on the launch status).

With respect to claim 18 (original), the limitations recited in the claim are analogous to the limitations recited in claim 6 (see the rejection of claim 6 above).

With respect to claim 19 (original), the limitations recited in the claim are analogous to the limitations recited in claim 7 (see the rejection of claim 7 above).

With respect to claim 20 (original), the limitations recited in the claim are analogous to the limitations recited in claim 8 (see the rejection of claim 8 above).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (571) 272-3707. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MY

Michael J. Yigdall
Examiner
Art Unit 2192

mjy


TUAN DAM
SUPERVISORY PATENT EXAMINER

accepted MY 5/25/05

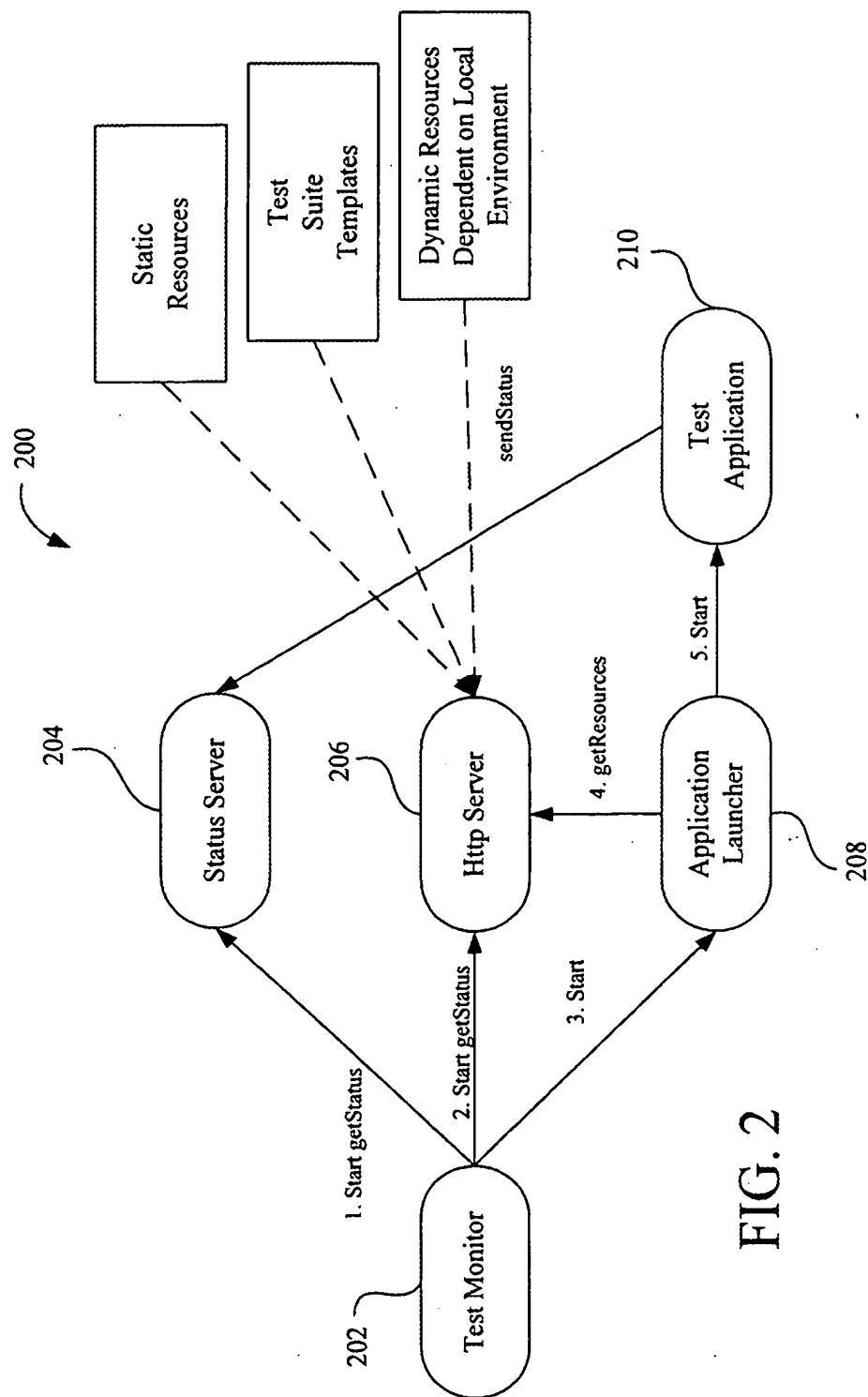
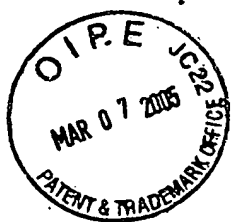


FIG. 2

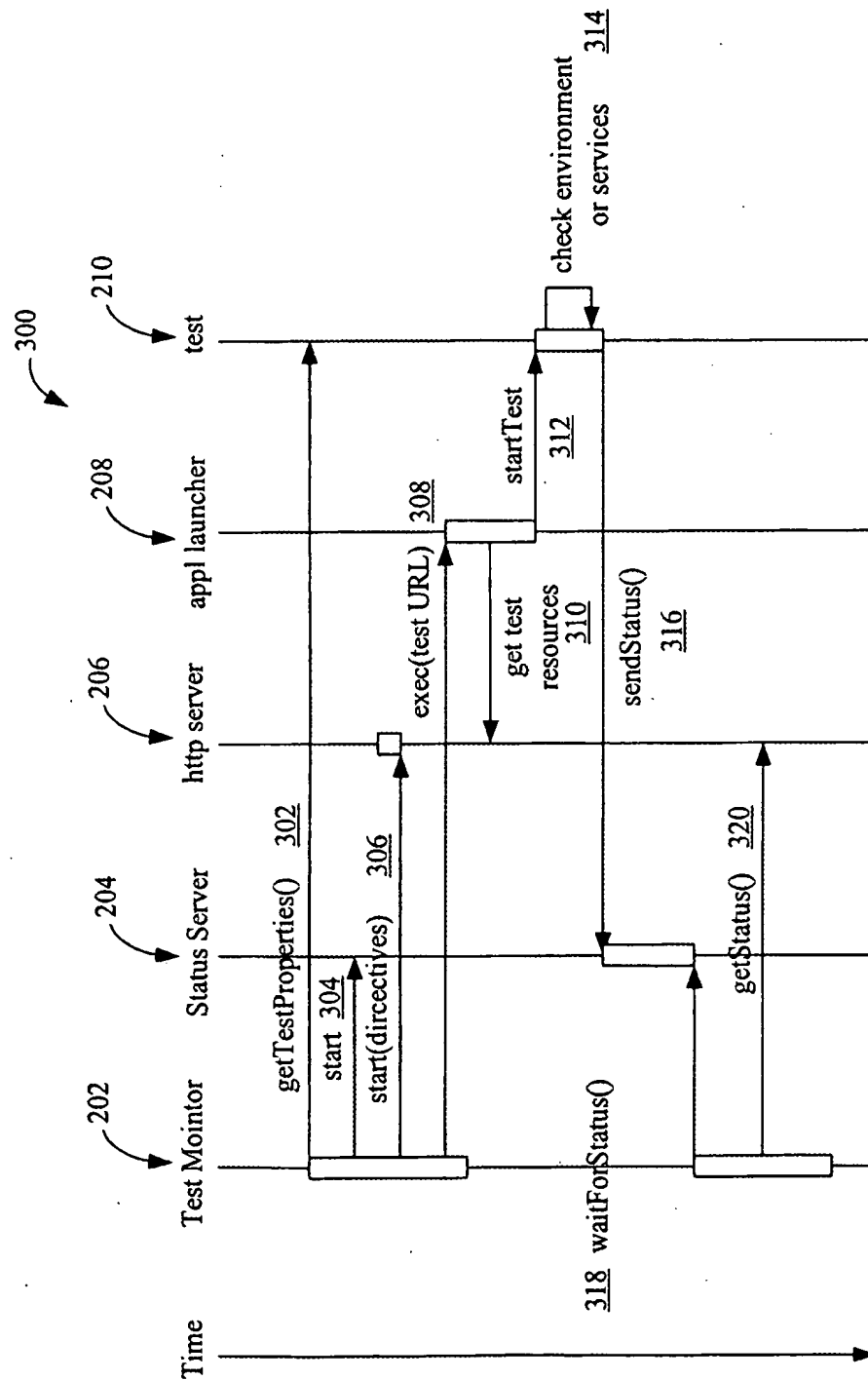
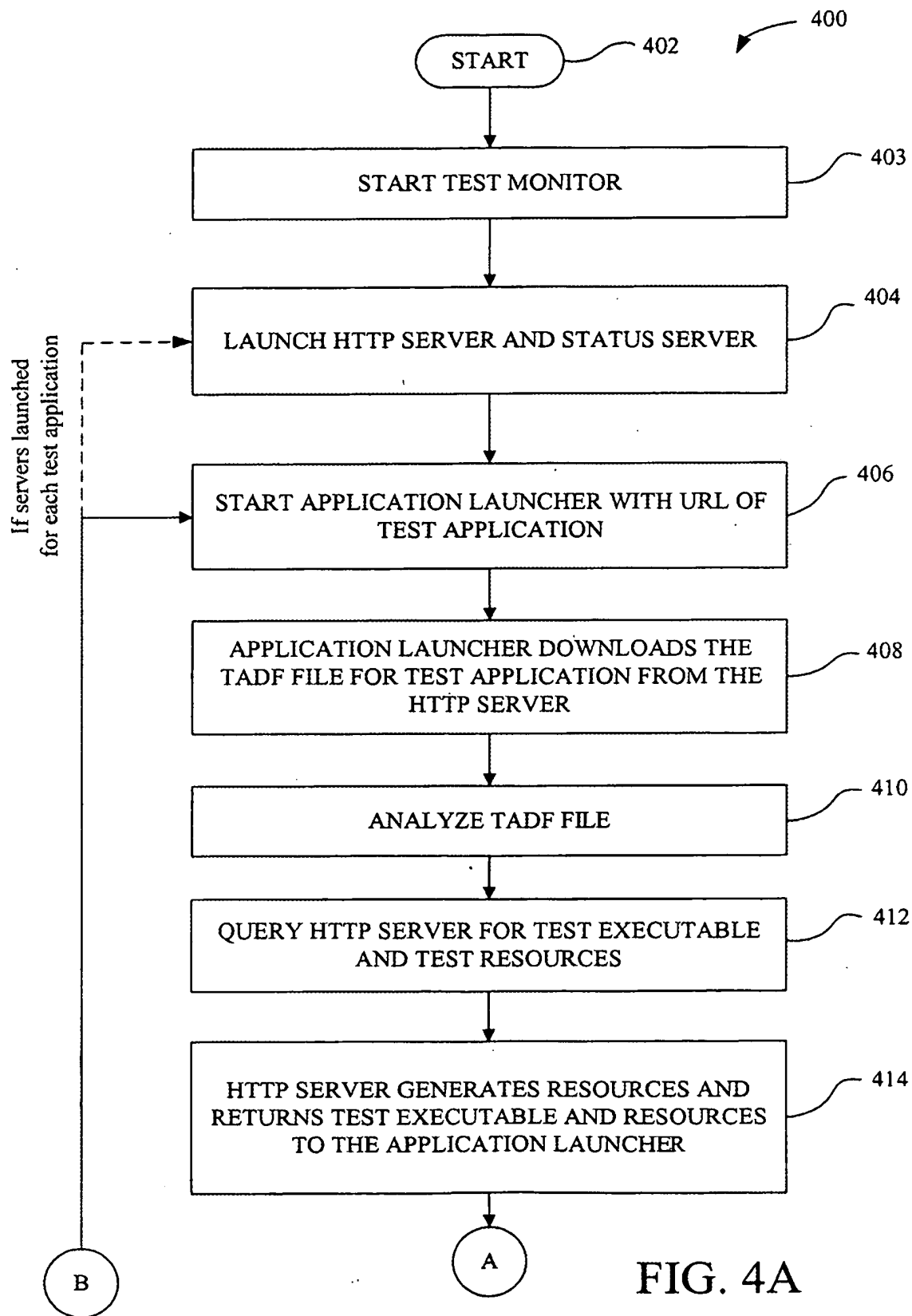
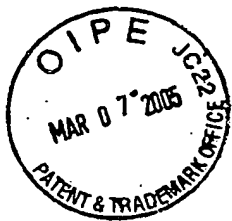


FIG. 3



accepted MY 5/25/05

